

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**TRUSTEES OF THE SHEET METAL
WORKERS' LOCAL UNION NO. 33,
CLEVELAND DISTRICT, HEALTH
AND WELFARE FUND, ET AL.,**

Plaintiffs,

vs.

**COMMERCIAL SIDING AND
MAINTENANCE COMPANY,**

Defendant.

CASE NO.: 1:09-cv-96

Judge Ann Aldrich

JUDGMENT ENTRY

Plaintiffs having moved for an order for a default judgment pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, and it appearing to this Court that (1) the Complaint in this action was filed against Defendant on or about the 14th day of January 2009; (2) that the Summons and Complaint were duly served on Defendant by certified mail on the 21st day of January 2009; (3) no Answer or other defense has ever been filed by Defendant as shown by the records of this Court; (5) default has been entered in the civil docket in the office of the Clerk of this Court, and no proceedings have been taken by Defendant since said default was entered; (6) Defendant is/are not in the Military Service; and (7) Defendant is/are not an infant or incompetent person, it is hereby:

ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant and for Plaintiffs as follows:

- (1) Order Defendant to make all of his books and records, for all employees, including those not in covered employment, owners and officers, and Texas employees, for the period of January 1, 2005 through December 31, 2007 available for inspection upon the request of the Funds' auditor so that Plaintiffs may determine the amount of damages due them;
- (2) An amount to be determined by the payroll audit for delinquent fringe benefit contributions with interest in the amount of one and one-half percent (1.5%) per calendar month on the unpaid contributions and liquidated damages in the amount of ten percent (10%) of the unpaid contributions;
- (3) The amount of \$2,496.98 Plaintiffs' reasonable attorney fees and the costs of this action; and
- (4) Any other relief this Court finds just and equitable

for a total of \$2,496.98. Interest shall accrue at the rate found in 28 U.S.C. Section 1961 which is .72% per diem from the date of this judgment.

IT IS FURTHER ORDERED that Defendant shall within thirty days of receipt of this Order fully cooperate with the Plaintiffs' auditor and make available for inspection at the Fund Office, 12515 Corporate Drive, Parma, OH 44130, all of their books and records and other information necessary for the completion of such an audit and for a calculation of delinquent fringe benefit contributions with interest in the amount of one and one-half percent (1.5%) per calendar month on the unpaid contributions and liquidated damages in the amount of ten percent (10%) of the unpaid contributions which are due and owing Plaintiffs for the period of January 1, 2005 though December 31, 2007. Defendant shall also cooperate with Plaintiffs in regards to whatever other discovery deemed necessary in this case to calculate any and all damages due and owing Plaintiffs.

IT IS FURTHER ORDERED that after Plaintiffs have completed their review of Defendant's books and records and whatever other discovery deemed necessary in this case,

Plaintiffs will submit to this Court proof of their additional damages at which time, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure this Court will determine whether to conduct a hearing before entering a judgment for additional damages against the Defendant.

s/Ann Aldrich

JUDGE

March 13, 2009

Date